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I am the Petitioner:

FILED
U.S. DISTRICT COURT
2019 APR 15 A 8:40
DISTRICT OF UTAH
BY: _____
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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH – NORTHERN DIVISION**

SAMUEL HOWELL, *pro se*
Plaintiff,

VS.

Department of the Treasury
Internal Revenue Service

Defendants

Case: 1:19-cv-00036
Assigned To : Stewart, Ted
Assign. Date : 4/15/2019
Description: Howell v. Department of
the Treasury et al

COMPLAINT:
Refund of Taxes

Demand for Jury Trial

1. Comes now SAMUEL HOWELL, Plaintiff *pro se*, having filed the instant law suit against the defendants the United States of America represented by the Department of the Treasury and the Internal Revenue Service, its agency, hereafter referred to as the “IRS”, on Plaintiff’s claim for refund of amounts overpaid as taxes, as properly claimed by way of 1040 or 1040x Tax Returns that Plaintiff filed concerning 2013, 2014, 2015, 2016, and 2017. Because Defendant has failed or refused to properly process Plaintiff’s 1040 or 1040x for Tax Years 2013, 2014, 2015, 2016 and 2017, Plaintiff has filed the instant action against the Defendant.

I. Jurisdiction and Venue

2. This Court has the general jurisdiction to hear this case pursuant to 28 U.S.C. § 1491, and original jurisdiction, concurrent with the U.S. Court of Federal Claims, under 28 U.S.C. § 1346(a)(1). This is a Civil Action against the United States for a refund of amounts withheld from Plaintiffs and/or paid to the IRS against the possibility of a later-proven liability, which liability was later and timely disproved.

3. Venue is properly within this court pursuant to 28 U.S.C. § 1491 (a)(1), and this venue is appropriate, fair, and convenient to the Defendant.

4. The underlying statutes and regulations that relate to the claim for the refunds and mandate the payment of money relevant to the case are 26 U.S.C. § 6401 (b)(1) and (c) and 26 U.S.C. § 6402 (a) and their corresponding Implementing Regulations found at 26 CFR 301.6401-1 and 26 CFR 301.6402-1, -2, and -3. Suit is brought under the authority of 26 U.S.C. § 7422.

5. Plaintiff has pursued and exhausted all Administrative Remedies known to him prior to the filing of this action in Court.

II. The Parties

6. Plaintiff is a married man, currently living in the state of Utah, Social Security number 311-96-4670

7. In referring to Defendant, Plaintiff includes the United States Department of the Treasury, which, upon information and belief, is a department, bureau and/or branch of the United States and at all times relevant acting as an agent thereof, and the Internal Revenue Service (IRS), which, upon information and belief, is a bureau and an agent of the Department of the Treasury and a collection agency in the business of collecting federal income and other taxes for the defendant United States and at all times acting as an agent thereof.

III. Statement of the Facts

8. Plaintiff filed a return 1040x for the Tax Year 2013 on January 4th, 2017 with the IRS at its Fresno, CA campus via USPS Priority mail.

9. A genuine copy of the Return is attached hereto as Exhibit A.

10. Plaintiff filed a return 1040x for the Tax Year 2014 on January 4th, 2017 with the IRS at its Fresno, CA campus via USPS Priority mail.

11. A genuine copy of the Return is attached hereto as Exhibit B.

12. Plaintiff filed a return 1040 for the Tax Year 2015 on January 15th, 2016 with the IRS at its Fresno, CA campus via USPS Priority mail.

13. A genuine copy of the Return is attached hereto as Exhibit C.

14. Plaintiff filed a return 1040 for the Tax Year 2016 on January 6th, 2017 with the IRS at its Fresno, CA campus via USPS Priority mail.

15. A genuine copy of the Return is attached hereto as Exhibit D.

16. Plaintiff filed a return 1040 for the Tax Year 2017 on October 15th, 2018 with the IRS at its Fresno, CA campus via USPS Priority mail.

17. A genuine copy of the Return is attached hereto as Exhibit E.

18. Subsequent correspondence with the IRS including phone calls and documentation received from the IRS proves that they received each of the Returns for the Tax Years 2013, 2014, 2015, 2016, and 2017.

19. The Returns show that the Plaintiff had, in fact, no tax liability for any of the Tax Years 2013, 2014, 2015, 2016, and 2017.

20. The Returns show an overpayment of taxes.

21. To the extent that any taxes are shown on the Returns as being owed, they have been paid.

22. Plaintiff has never received any § 6402 (l) Notice of Claim Disallowance for any of the Returns for the Tax Years 2013, 2014, 2015, 2016, and 2017.

23. Plaintiff has never received a Notice of Deficiency for the Tax Years 2013, 2014, 2016, and 2017.

24. On information and belief, Defendant has not executed a § 6020(b) Return for Plaintiff for the Tax Years 2013, 2014, 2015, 2016, and 2017.

25. Plaintiff has not seen any evidence that the Returns have been processed for the years 2013, 2014, 2015, 2016, and 2017.

26. Plaintiff has seen evidence that the IRS has refused to properly process the Returns for the years 2013, 2014, 2015, 2016, and 2017.

27. Plaintiff has never received any refund or notice of credit from Defendant of the overpayments shown on the Returns for the years 2013, 2014, 2016, and 2017.

IV. Claims for Relief

A. Count One

28. Plaintiffs incorporate and re-allege the foregoing paragraphs as if fully set forth herein.

29. On information and belief, Defendant has failed or refused to properly process the Returns.

30. Defendant has not refunded Plaintiff's overpayments shown on the Returns.

31. To date, for the Tax Years, 2013, 2014, 2015, 2016, and 2017, Defendant owes Plaintiff the amount of \$16,586 (see Exhibit F) plus interest as allowed by law.

V. Prayer for Relief

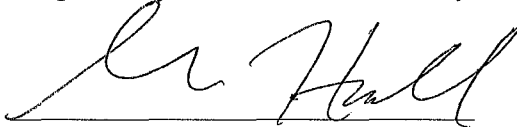
Wherefore, Plaintiff prays for judgement against the Defendant as follows:

- a. That this court find for the Plaintiff in the amount of their refund claims of
\$16,586 plus interest as allowed by law;
- b. For such other and further relief as may be permitted by law and this Court may
deem just and proper.

VI. Jury Trial Demanded

Unless prohibited by law, Plaintiff demands a trial by jury.

Respectfully submitted this 15th day of April 2019.

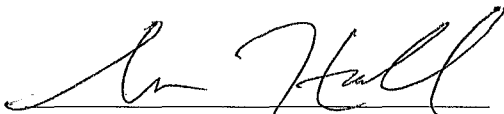


SAMUEL HOWEL, Plaintiff *pro se*

VERIFICATION

I, SAMUEL HOWELL, am a Plaintiff in the above titled action. I have written and prepared the foregoing Complaint, and know the contents thereof. The same is true of my own knowledge in substance and fact, except as to those matters which are herein alleged on information and belief, and as to those matters, I believe them to be true. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed at Bountiful, Utah.

DATED April 15th, 2019 at 9:00am.



SAMUEL HOWEL, Plaintiff *pro se*